

## REMARKS/ARGUMENTS

This paper is filed in response to the office action mailed in this case on October 5, 2007.

### **Preliminary Remarks:**

Applicants note that they herein cancel claims 6, 8, 9, and 16 to 21 (i.e. the only claims pending are now 1-5, 7, 10-15). Applicant has amended claims 1, 2, 10, 11, 12, and 14. No new matter has been added by these amendments.

Claim 1 is amended to include the limitations of claim 6 (e.g. that the control device is angled upwardly out of the plane of the upper surface of the armrest) and to add the limitation that the control feature is displaceable with respect to the armrest. Support for these limitations can be found throughout the specification including original claim 6 and the drawings. *See* page 8 lines 14 to 23 and Figures 1 and 2. *See also*, page 9 lines 19 to 23 and Figures 3 to 5, *inter alia*.

Claim 2 is amended to clarify the nature of the displacement of the control interface with respect to the associated armrest. Namely, the control interface is pivotable from the armrest. Support for this limitations can again be found throughout the specification and drawings. *See* page 9 lines 19 to 23 and Figures 3 to 5, *inter alia*.

Claim 10 is amended to make the claim dependent upon claim 1. Namely, claim 10 further limits the control interface of claim 1 to include side surfaces configured to permit smooth contact by the side of a user's hand. *See* original claim 10 and page 12 lines 19-23 of the specification.

Claim 11 is amended to make the claim dependent upon claim 1. Namely, claim 11 further limits the control interface of claim 1 to have a palm contacting surface that is constructed and arranged to underlie at least 50% of the area of a user's palm. *See* original claim 11 and page 10 lines 25 and 26 of the specification.

Claim 12 is amended to clearly distinguish between the interface itself and the armrest on which it is mounted. Namely, the interface is mounted on one of the armrests and is displaceable with respect to the armrest on which it is mounted to effect movement of said stairlift. *See* page 8 lines 14 to 23 and Figures 1 and 2. *See also*, page 9 lines 19 to 23 and Figures 3 to 5, *inter alia*.

Claim 14 is amended to include the limitations regarding the chair of amended claim 1. Support for this amendment is found throughout the specification and in amended claim 1. *See* above.

### **The 112 rejections:**

The Examiner rejects claims 14, 20, and 21 under 35 U.S.C. § 112, second and fourth

paragraphs. Applicants note that they herein cancel claims 20 and 21 in the present response. Claim 14 is amended to specifically recite the chair limitations of claim 1. Therefore, Applicants request the Examiner to withdraw his 112 rejections.

**The 102 rejections:**

*The rejections based on the Titchener reference:*

The Examiner rejects claims 1, 6, 10, 14, 15, 17, and 20 under 102(e) as being anticipated by Titchener (PCT/GB2004/003249). Applicants note that Titchener is not available as a prior art reference under 35 U.S.C. § 102(e) against the present application. The present application has the priority date of March 20, 2003 which precedes Titchener's international filing date of July 27, 2004. On a side note Applicants point out that the priority date of the present application also precedes the priority date (July 28, 2003) of Titchener.

Applicants request the Examiner to withdraw his rejections to the claims based on this reference. Since no other rejection has been made to claim 15, Applicants submit that this claim is now in form for allowance and such action is earnestly solicited. With regard to the balance of claims of the application and the Examiner's rejections, Applicants submit for the foregoing reasons, these claims are likewise now in form for allowance.

*The 102 rejections based on the Voves reference:*

The Examiner next rejects claims 1-7, 10-14, 16-21 under 102(b) as being anticipated by Voves (US 4,913,264). Applicants note that of these rejected claims only claims 1-5, 7 and 10-14 remain pending. Applicants also note the amendment of claims 1, 2, 12, and 14 and submit that these claims as amended (and therefore the balance of the presently rejected dependent claims based thereon) are not anticipated by Voves.

Case law is clear on the requirements for proving anticipation. "The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention." *Ex parte Levy*, 17 USPQ2d 1461, at 1462. "Moreover, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Id.*

With regard to amended claims 1 and 14 and the rejected dependent claims based thereon, Voves does not show a control interface having a palm contacting surface which is both displaceable with respect to the armrest and is angled upwardly out of the plane of the upper surface of the armrest. Furthermore Voves does not show a control interface that displaceable with respect to the armrest to effect movement of a stairlift on which the stairlift chair is mounted.

Voves' component 46 is not a control interface but is expressly described as a forward part of the arm itself. See column 4 lines 46 to 49. Displacement of the component 46 with

respect to the remainder of the arm is not used to effect control of the stairlift. Displacement of component 46 does not influence movement of the stairlift described in Voves up and down the rail as is required by the present claims. The only components in Voves which meet the description of control interface are the buttons 170. *See* column 10 lines 5 to 15. These buttons 170 do not form a “palm contacting surface”, an “extension of the plane of the upper surface of the armrest”, nor are they angled upwardly from the upper surface of the armrest. The buttons 170 shown in Voves are entirely conventional and do not address the problem addressed by the present invention.

With regard to amended claim 12, and dependent claim 13 based thereon, these claims now clearly distinguish between the user control interface itself and the armrest on which it is mounted. The interface is formed in two parts and it is engageable and displaceable from the armrest. Voves does not disclose a displaceable interface, rather Voves discloses that solely that the armrest itself is displaceable.

Applicants submit that amended independent claims 1, 12, and 14, and dependent claims based thereon, are not anticipated by Voves, and that the Examiner’s rejections to these claims be withdrawn.

*The 102 Rejections based on the Hester Reference:*

Lastly, the Examiner rejects claims 1, 6, 10, 11, 14, 17, and 19 under 102(b) as being anticipated by Hester (US App. Ser. No. 09/975,329). Applicants note that claims 6, 17, and 19 are no longer pending and herein amend independent claims 1 and 14. Applicants submit that these claims (and therefore the balance of the rejected dependent claims based thereon) are not anticipated by Hester.

Hester’s control interface is the joystick 8. This joystick does not form a palm contacting surface which forms a substantial extension of the upper surface of the armrest. The present invention was developed particularly to overcome the discomfort inherent in using the joystick type controls of the type shown in Hester. Therefore, the Examiner’s rejections based on Hester should be withdrawn.

**The 103 rejections:**

The Examiner rejects claims 5, 8, and 9 under 35 U.S.C. § 103(a) as obvious over the combination of Houston (US 5,137,102) and Hester. Applicants again note that they herein cancel claims 8 and 9. With respect to the present rejection of claim 5, Hester’s control interface is the joystick 8 which does not form a natural extension of the upper surface of the armrest. Houston’s control mechanism is also a joystick (i.e. toggle arm 162). *See* column 10 lines 44 to 50. Houston’s joystick also does not form a natural extension of the upper surface of the armrest as required by claim 5. Applicants therefore submit that the combination of Houston and Hester fail to render claim 5 obvious and the Examiner’s rejection should be withdrawn.

**Conclusion:**

Applicants submit for the foregoing reasons, this application and the amended claims are now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marina T. Larson", is written over a horizontal line.

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